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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11 IN RE JUNIPER NETWORKS, INC.)
12 SECURITIES LITIGATION)

Case No.: C 06-4327 JW (PVT)

13 **ORDER GRANTING DEFENDANT JUNIPER**
14 **NETWORKS, INC.'S MOTION TO COMPEL**
LEAD PLAINTIFFS TO PROVIDE A FURTHER
RESPONSE TO INTERROGATORY NO. 4

15 On February 20, 2009, Defendant Juniper Networks, Inc. ("Defendant") filed a motion to
16 compel Lead Plaintiffs to provide a further response to Interrogatory No. 4. Lead Plaintiffs opposed
17 the motion. Having reviewed the papers submitted by the parties, the court finds it appropriate to
18 issue this order without oral argument. Based on the moving, opposition and reply papers submitted,
19 and the file herein,

20 IT IS HEREBY ORDERED that Defendant's motion to compel Lead Plaintiffs to provide a
21 further response to Interrogatory No. 4 is GRANTED.

22 Interrogatory No. 4 asks Lead Plaintiffs to "[i]dentify each date for which Lead Plaintiffs
23 claim the decline in Juniper's stock price caused Lead Plaintiffs damages and for which Lead
24 Plaintiffs seek recovery." Lead Plaintiffs objected to the interrogatory on the grounds that the
25 information sought will be the subject of continued investigation and expert analysis.¹

26 The case primarily relied on by Lead Plaintiffs, *Dow Chemical Co. v. Reinhard*, 2007 WL

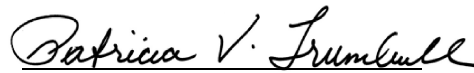
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28 ¹ Lead Plaintiffs also claim the discovery is premature under the discovery plan governing this litigation. However, nothing in the discovery plan precludes the parties from propounding discovery that is in essence directed at the *facts* upon which an expert may later base his or her opinion.

1 4234117, *3 (E.D.Mich. 2007) does not support Lead Plaintiffs' opposition to this motion. It
2 appears that in *Dow Chemical* the plaintiff *had* provided damages information that was available to it
3 at the time, and objected only to prematurely "fully determin[ing] the amount of monetary damages
4 because it will rely on experts to adequately determine damages." *Ibid.* The court found that "the
5 information that Dow Chemical produced is adequately responsive at this time... ." In the present
6 case, Lead Plaintiffs provided *no* information in response to Interrogatory No. 4.

7 This case was filed over 2 ½ years ago. By this stage of the litigation, Lead Plaintiffs must
8 have some idea of the dates on which declines in Juniper's stock price caused them damages for
9 which they seek recovery. *See, e.g., King v. E.F. Hutton & Company, Inc.*, 117 F.R.D. 2, 5-6
10 (D.D.C. 1987) ("while an expert on stockbroker operations and investments may be necessary to
11 refine the evidence of their losses, the plaintiffs must have had some factual basis for concluding
12 they had sustained losses at the time the complaint was filed" (footnote omitted)). Providing that
13 information to Defendants now will not preclude Lead Plaintiffs from amending and/or
14 supplementing their response later if warranted by their expert's opinion. *See Cable & Computer*
15 *Technology, Inc. v. Lockheed Saunders, Inc.*, 175 F.R.D. 646, 651-52 (C.D.Cal. 1997) ("although it
16 is too early for plaintiff to provide expert opinions on the subject of damages, plaintiff may, at this
17 time, answer interrogatory no. 1 based on the information it has to date. Of course, plaintiff may later
18 amend its answer with leave of Court or supplement it, as it has an obligation to do under
19 Fed.R.Civ.P. 26(e)").

20 Requiring Defendant to wait any longer for the information sought would prejudice
21 Defendant in preparing its opposition to Lead Plaintiffs' motion for class certification. For this
22 reason, as well as the "spirit of candor and cooperation mandated by the Federal Rules of Civil
23 Procedure," this court finds that an order compelling Lead Plaintiffs to provide whatever information
24 is currently available to them upon a reasonable investigation is warranted. *See King v. E.F. Hutton*
25 *& Company, Inc.*, 117 F.R.D. at 5-6.

26 Dated: 3/12/09

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28 PATRICIA V. TRUMBULL
United States Magistrate Judge